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ENVIRONMENTAL DEFENSE FUND

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Fundamental Elements of a Successful Bay-Delta Conservation Plan

The BDCP has been in development since 2006 and a draft administrative conservation plan is expected summer 2009. Our organizations continue to work collaboratively within the BDCP planning process and are optimistic that we can meet this goal. To that end, we believe that the following elements are necessary for the BDCP to be successful as a long-term, ecosystem-based plan to provide for the recovery of key species in the Bay-Delta while ensuring water supply reliability:

Natural Communities Conservation Planning Act

The BDCP must comply with the Natural Communities Conservation Planning Act

In order to provide for the long-term recovery of listed species and conservation in the Delta, the BDCP must comply with both the requirements of the federal Endangered Species Act (ESA) through a Habitat Conservation Plan and the Natural Communities Conservation Planning Act (NCCPA) to obtain take authorization under the California Endangered Species Act (CESA). The NCCPA was designed for long-term multi-species conservation planning, with an emphasis on habitat protection and restoration, as well as adaptive management. The NCCPA's focus on a more holistic and ecosystem-based approach to conserving and managing the Delta is preferable to the individual species-centric approach under the incidental take permit process in CESA, because it is more likely to produce a plan that reduces the likelihood of other species becoming endangered in the future.

Biological Goals and Objectives

The BDCP must include quantified biological goals and objectives for both aquatic and terrestrial species.

Quantitative goals (at both the population and ecosystem levels) are critical in order to help design and evaluate the efficacy of proposed conservation measures and adaptively manage the BDCP over the long-term and determine whether adopted measures are sufficient to meet the BDCP goals. The goals for aquatic and terrestrial species must be consistent with and advance the goals in existing and forthcoming recovery plans, and comply with existing laws, such as the Central Valley Project Improvement Act (CVPIA). Without quantitative goals, it will not be possible to determine whether the conservation plan is on target, or whether adjustments to it are needed to achieve its goals. This is particularly important for a plan that will likely rely quite heavily on adaptive management.

Freshwater Flows

The BDCP must include a comprehensive range of flows & operational constraints that are protective for the ecosystem

Sufficient freshwater inflows to and outflows from the Delta are among the most important drivers of ecological conditions in the Bay-Delta estuary and are essential for a successful conservation plan. Flows transport aquatic organisms and nutrients, improve water quality, trigger seasonal movements and reproduction, and provide the low salinity habitat upon which many Delta species depend. Consistent with the *Delta Vision Strategic Plan* recommendation that

higher and more variable freshwater flows in the Delta and upstream rivers must be restored to support the estuary's fish and wildlife, the BDCP must improve upon existing standards. For example, the BDCP must improve on Delta outflow, San Joaquin River inflow, Sacramento inflow, provide for more frequent inundation of the Yolo Bypass and eliminate reverse flows in the South Delta at key times.

Habitat Restoration

The BDCP must include significant restoration of tidal, floodplain and riparian habitat

In addition to improvements in freshwater flows, a comprehensive conservation plan must include restoration of significant area of tidal habitat as well as floodplain and riparian habitat. Tidal marsh is critically important for food production and habitat for multiple life stages of many species, once covered over 400,000 acres of the Delta and Suisun Marsh and has been reduced by over 90%. A target of between 50,000 and 80,000 acres of tidal habitat in the Delta and Suisun Marsh has been established for the plan. Acreage targets for floodplain and riparian habitats are currently under development.

Terrestrial habitat targets are also currently under development. While the focus of the BDCP to date has been on the restoration of tidal, floodplain and riparian habitat to address the conservation needs of fish, the BDCP must now focus on the significant habitat and terrestrial species conservation issues involving the conversion of thousands of acres of agricultural land, grassland, and seasonal and managed wetlands from the proposed aquatic restoration and the proposed water delivery infrastructure.

BDCP Governance

The BDCP must include a governance structure that provides ironclad environmental assurances

The governance structure for the BDCP must include a mechanism to address and reduce resource conflicts and to avoid additional stress on the ecosystem. In particular, the structure must reduce conflicts between ecosystem processes and water extractions to the maximum extent possible, promote the recovery of listed species (not just avoid jeopardy), ensure effective adaptive management and in general greatly improve upon the existing real-time decision-making process in place which has significantly constrained the ability of fishery agencies to take necessary protective actions. Ultimately, this governance structure will be integrated into a broader governance structure overseeing the total management of the Delta and all of its uses.

The governance structure must also provide for a solid partnership between the federal and state entities involved in the Delta. The conservation plan for the Delta requires ongoing involvement and partnership of both the state and federal government. While the state is leading the BDCP process, the BDCP will not be successful without the federal government committed to carrying out the plan.

Financing

The BDCP must include a financing plan based on "Beneficiary Pays"

The "Beneficiary Pays" approach, which is premised on those who benefit from a project contributing the majority of the costs of the project, must be applied in the BDCP. To date, the potentially regulated entities (PRE's) participating in the BDCP have committed to pay for the construction and operation of the isolated facility. Habitat enhancements will likely be shared between the PRE's and the state and federal contribution. The state portion will only be made available if the BDCP meets the requirements of the NCCPA.